

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Larry D. Lisenbee
Budget Director

**SUBJECT: 2007-2008 ADOPTED FEES AND
CHARGES REPORT**

DATE: November 7, 2007

APPROVED:

DATE:

The 2007-2008 Adopted Fees and Charges Report documents the majority of the fees and charges accruing to the City's General Fund. As has been the practice for a number of years, however, the document does not include a number of the fees assessed by the City's enterprise operations (e.g., Airport, Downtown Parking, and Convention Center Facilities) as they are brought to the City Council for consideration in a different form.

The fees approved in this document are all assumed in the revenue estimates contained in the City Manager's 2007-2008 Adopted Operating Budget. The fee changes approved will result in a cumulative increase of approximately \$3.8 million for all funds and \$4.0 for the General Fund over the amount estimated to result if no changes to the 2006-2007 fee levels were approved. The increase primarily reflects changes adopted in conformance with Council direction to maintain full cost recovery in most fee supported program areas.

Cumulative departmental fees and charges for 2007-2008 are projected to result in total revenue receipts of

approximately \$101.2 million, of which \$70.8 million will accrue to the General Fund. For all Council-directed cost recovery fee programs (excluding penalties, fines, and non-cost recovery activities), 2007-2008 adopted fees and charges are projected to recover approximately 93% of fee program costs. This is down slightly from the approximately 96% cost recovery level budgeted in the 2006-2007 for Category I fees.

The drop from the 2006-2007 cost recovery level is due primarily to lower cost recovery rates for the development-related fees in the Planning, Building and Code Enforcement Department. The use of development fee reserves, however, will bring this program to 100% cost recovery in 2007-2008. The Rental Dispute Mediation Fee for apartment units was also approved to be suspended for one year as the accumulated reserve for this program will be used to cover the program costs in 2007-2008.

The body of this report contains details, by responsible department, of adopted fees and estimated costs for the services for which the fees are assessed. In developing the

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2007-2008 fee structure, staff was guided primarily by the City Council's policy direction to strive for 100% cost recovery for most fee-related programs. During the budget development process, all fee programs were reviewed to both ensure that the amount being assessed would not deter the delivery of service levels necessary to meet anticipated demand, and that fee programs would remain as close as possible to current levels of cost recovery.

Additional Council direction was also followed, so that where appropriate, fees take into consideration approved exceptions to the City Council's full cost recovery policy, as well as applicable State laws. The departments with an overall cost recovery level below 100% administer fee programs that the City Council has previously directed remain at less than cost recovery, generally in order to assure public access to services. Examples include fees for public records and youth recreation programs. In view of this direction, the cost recovery levels for these programs are fairly consistent with the 2006-2007 adopted levels.

Highlights of the 2007-2008 Adopted Fees and Charges Report include the following:

DEVELOPMENT FEE PROGRAMS

Development activity, including planning permit applications, building permits, plan reviews, and inspection activity, has remained relatively constant since the development boom ended in 2000-2001. For the four Fee Program partners, Planning, Building, Fire, and Public Works, there has been a shift away from commercial and

industrial construction activity toward residential construction activity that has resulted in declining construction valuations while service demand continues to gradually grow. In addition, the type of residential development over time has shifted from the sprawling tract homes to mostly in-fill development. This change brought with it increased costs and reduced revenues with the fee structures that were in place.

In order to provide stability to the development fee programs, the Building Fee Program implemented a new fee structure in July 2003 for residential projects with a time-based methodology and an initial fee assessment based on the average service time invested in the particular product type. Previously, a valuation-based methodology was used for calculating permit and plan check fees. The long standing valuation-based methodology was determined to be less precise in matching fees with service than a time-based cost-of-providing-service methodology. In 2005, the Fire Department implemented this new methodology in its fee structure. In 2006-2007, the Building Fee Program implemented the time-based fee structure for commercial and industrial projects, bringing a consistent time-based methodology for all Building and Fire fees. For 2007-2008, the Planning Fee Program will be implementing the time-based fee methodology for the Environmental Review Program. It is anticipated that this methodology will be expanded to the remainder of the Planning Fee Program and Public Works Fee Program in 2008-2009.

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DEVELOPMENT FEE PROGRAMS (CONT'D.)

In preparing resource and fee proposals for 2007-2008, staff met with the San José Silicon Valley Chamber of Commerce's Development Committee, which has served as an advisory panel to the City's Development Service partners, as well as sought feedback from a number of other industry groups representing home builders, office park developers, architects, and the remodel industry. Development Services also received feedback from individual customers and through the first annual scientific Customer Satisfaction Survey.

Planning, Building and Code Enforcement Department (Development Fees) – The Planning, Building and Code Enforcement Department administers a variety of fees and charges related to processing development permit applications and ensuring that construction in San José conforms to applicable building codes and regulations.

While all categories of new construction as well as commercial and industrial alterations are down (activities where valuations are higher relative to corresponding service demand), the labor-intensive residential remodeling activity sector continues to grow, resulting in declining construction valuations while service demand continues to slowly grow. It is estimated that the 2007-2008 adopted Planning, Building and Code Enforcement Department development-related fees and charges program, excluding use of fee reserves, penalties, and interest, will raise revenues of \$31.4 million, reflecting a cost recovery rate of

approximately 91.1%. This adopted cost recovery level represents a decrease from the 2006-2007 adopted level of approximately 94.3%.

With increasing costs and revenue growth that was not keeping pace, there was a revenue-to-cost gap. In the Planning Fee Program, actions were approved which will allow the program to achieve 100% cost recovery. To address the longer term revenue-to-cost gap in the Building Fee Program, a phase-in of fee increases over several years using fee reserves to balance its program budget was approved.

The individual adopted Planning and Building Fee Program actions are described in the following sections of this document and summarized below:

Building Fee Program – The 2007-2008 adopted Building Fee Program budget package closed a \$2.8 million revenue-to-cost gap and covered \$1.5 million in additional programmatic augmentations (87% of which were one-time) with a 5% fee increase that will generate \$1.2 million in additional revenue and included the use of \$3.1 million from the Building Fee Program Fee Reserve. These actions resulted in a \$28.3 million full cost recovery fee program.

Planning Fee Program – In 2007-2008, the base planning costs were \$6.8 million while the base revenues were \$5.8 million, resulting in a shortfall of approximately \$957,000.

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DEVELOPMENT FEE PROGRAMS (CONT'D.)

Planning, Building and Code Enforcement Department
(Cont'd.)

Planning Fee Program (Cont'd.) – As part of the Adopted Budget, this gap was closed through an approved fee increase of 8% that will generate \$464,000 in revenue and the elimination of several positions resulting in a savings of \$493,000. These actions will also support the modest additions of \$25,000. The resulting \$6.3 million Fee Program is projected to be 100% cost recovery.

General Plan Update – State legislation authorizes cities to place a surcharge on development permits to fund updates of their General Plan. Accordingly, a 1.25% surcharge to be applied to all entitlement and building permit fees was approved by Council in 2004-2005. No change to that surcharge was included in this budget. Formal initiation of the General Plan Update process was approved by City Council in June 2007. Once underway, the General Plan Update will take two to three years to complete. The fee is anticipated to raise \$200,000 per year to fund the non-personal/equipment and consultant costs of the General Plan update process. Additional funding from the General Fund was approved for four positions in the Planning, Building and Code Enforcement Department and funds to support staff in several other departments was also approved in 2007-2008.

Public Works Department – The Public Works Department's Fee Program, which combines the Development Services Fee Program and the Utility Fee Program, is responsible for the collection of various fees for private development activities, such as plan review and inspection of public improvements constructed by private developers, review of subdivision maps, grading permits, geologic hazard clearances, and sewer/revocable permits. In addition, staff reviews plans, issues permits, and collects fees for work performed by utility and telecommunication companies and locates City-owned underground facilities.

Fee increases in the Development Services Fee Program (8.9%) and the Utility Fee Program (14%) were adopted for 2007-2008 to cover the escalating program costs, and to improve cycle-time performance for improvement plan processing and planning processing, which have declined to levels far below the level endorsed by the development community. The approved fee increases elevated revenue projections to \$8.7 million. After the approved fee increases, a small gap between projected revenues and expenditures (\$240,000) still existed. The gap was closed by a one-time use of the Public Works Earmarked Reserve resulting in a full cost recovery program. This left approximately \$750,000 in the reserve to address deficits in future years.

With the shift, in recent years, to more in-fill development that does not include major new infrastructure, the basis for many of the Public Works development fees is obsolete. In 2007-2008, the Department will begin a systematic cost of

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DEVELOPMENT FEE PROGRAMS (CONT'D.)

Public Works Department (Cont'd.)

service analysis with the goal of overhauling the fee structure in 2008-2009 to a time-based fee structure that will alleviate the persistent structural deficit which has plagued the program over the past several years.

Fire Department (Development Fees) – The Fire Department administers fees for: fire safety permits and inspections; fire safety plan review, and inspections for construction projects submitted to the Building Division; fire system permits (sprinklers, fixed extinguishing systems, and fire alarm systems); hazardous materials permits; and charges for fire reports, documents, and photographs.

For 2007-2008, to bridge the gap between anticipated revenues of \$4.6 million and base expenditures of \$4.9 million, a combination of actions was adopted in the Fire Development fee category to achieve cost recovery. These actions included a 5% fee increase (\$229,500) and the elimination of a vacant Office Specialist II position. The addition of one-time resources included two additional vehicles to improve inspection cycle times and updated code books to maintain inspection and plan check quality. These actions brought the program to 97.8% cost recovery, and the one-time use of fee reserves (\$110,066) resulted in 100% cost recovery, balancing expenditures of \$4.9 million with anticipated revenues and use of reserves.

Transportation Department – The Transportation Department is responsible for the collection of fees for some development-related activities, such as: General Plan Amendment Model Analysis; Geometric Plan Design; New Subdivision Pavement Markings; and New Subdivision Traffic Control Signs.

Several fee adjustments were adopted for specific Transportation Department development-related fee programs in 2007-2008 to allow the City to keep pace with cost increases and/or maintain full cost recovery. These fees, however, are not considered part of the City's major development fee programs.

OTHER FEE PROGRAMS

City Clerk – One of the City Clerk's many responsibilities is to make all official City Council records and documents accessible to the public. The Office of the City Clerk also performs special research and notary services on a fee basis.

For 2007-2008, the Office of the City Clerk has modified three of its fees, including the inclusion of compact disks (CDs) for tape duplicating and audio recording services and the addition of a new video recording fee for the creation and distribution of digital video disk (DVD) copies of City Council and Council Committee meetings.

Office of Economic Development – The Office of Economic Development (OED) is responsible for administering the City's Foreign Trade Zone and Subzones,

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OTHER FEE PROGRAMS (CONT'D.)

Office of Economic Development (Cont'd.) – which includes processing applications, boundary modifications, and contract negotiations and extensions. OED is also responsible for the collection of fees related to Office of Cultural Affairs (OCA) activities, including various event permit and use permit fees. One fee adjustment was approved for this Office in 2007-2008. The Gated Event on Public Property fee was adjusted to better provide the flexibility needed to keep the cost of the service in line with contractual agreements.

Environmental Services Department – The Environmental Services Department administers two fee programs as part of the Integrated Waste Management Program: Source Reduction and Recycling Fees (AB939); and Franchise Application Fees. For 2007-2008, no change to the Commercial Solid Waste AB939 fee was proposed. This fee will remain at \$0.89 per cubic yard for loose commercial solid waste and \$2.67 for compacted commercial solid waste. In addition, there was no change to the Commercial Solid Waste Franchise Fees (adopted through a separate resolution outside this document) currently at \$3.67 per cubic yard for loose commercial solid waste and \$11.01 per cubic yard for compacted commercial solid waste. The total Commercial Solid Waste fee load (AB939 and Franchise Fees), will remain at \$4.56 per cubic yard (for loose waste) and \$13.68 per cubic yard for compacted waste. It should be noted that the cost of service to businesses, which includes commercial solid

waste fees and the recycling/diversion rate, will still remain among the lowest in the area.

Finance Department – The Finance Department is responsible for collecting, accounting, and monitoring the license and permit fees for Christmas tree and pumpkin patch lots, circuses, carnivals, and parades. The Department is also responsible for a number of miscellaneous fees along with Integrated Waste Management-related late charges.

Fee adjustments have been adopted in 2007-2008 to maintain cost recovery levels in a number of specific fees that include: Christmas Tree/Pumpkin Lot Licenses, Circus Permits, Handbill Distributors Fees, Business Tax Special Report Fees, Returned Check Fees, and Exempt Business Tax Applications.

Adjustments to delinquency fees related to the solid waste program, including the Administrative Charges for Collection Procedure, Late Payment Charge, Notice of Intent to Lien, and Returned Check Fee were approved.

Fire Department (Non-Development Fees) – The Fire Department Development fees were included in the Development Fee Programs section as noted above. The Fire Department Non-Development fee category consists of annual fees such as Annual Renewable Permits and Hazardous Materials Installation, Removal, or Alteration Permits. A 7.6% fee increase (\$235,144) was approved to be disseminated evenly across most of the fee categories,

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OTHER FEE PROGRAMS (CONT'D.)

Fire Department (Non-Development Fees) (Cont'd.)

including Annual Renewable Permits, Fire Safety Permits, and Inspector Activity Fees. This fee increase balances expenditures with anticipated revenues of \$3.3 million, maintaining the full cost recovery level required by Council policy.

General Services Department – The General Services Department is responsible for the collection of various fees for events at City Hall. Event spaces include the Rotunda, the Plaza, the Council Chambers, and the Committee Meeting Rooms. The fee structure for events at City Hall was established to partially offset the costs of operating and maintaining spaces for public use while ensuring that the use of the facility is accessible and affordable for the community. There were no adjustments for the existing General Services Department fees proposed for 2007-2008.

Housing Department – The Housing Department administers the Rental Dispute program. This includes the Rental Dispute Mediation and Rental Mediation Penalty. Inclusionary Fees are also included in this Department and represent fees paid by developers if they decide to not build inclusionary (affordable) units. This fee is the amount the Housing Department would need to spend to construct a rental/owner unit in-lieu of a developer providing an otherwise required inclusionary unit.

As a result of decreased rental rates, which directly contributed to a decreased demand for mediation services, the Rental Dispute Mediation Program has developed a substantial reserve (\$640,000). For this reason, the 2007-2008 Rental Dispute Mediation Fee for apartment units was approved to be suspended for one year, during which time the program costs for services to apartment tenants and landlords will be paid from the accumulated reserve.

On June 19, 2007, the City Council and the San José Redevelopment Agency Board approved amendments to the Inclusionary Housing Policy which included a revised inclusionary in-lieu fee structure. For most units, the revised fees are \$17.00 per total square feet of living space in the entire development, with a maximum that varies by the type of units in the development. For units in the Downtown High-Rise Incentive Areas, the fee is \$8.50 per square foot.

Library Department – The Library Department levies fines for overdue, lost and damaged materials, and collects fees for various services such as community room rental and providing materials through other library systems. There were no adjustments for existing Library Department fees proposed for 2007-2008.

Parks, Recreation and Neighborhood Services Department – The Parks, Recreation and Neighborhood Services Department (PRNS) assesses and collects a variety of fees and charges related to the following: adult sports fees, field and sports facilities reservations, gym and fitness

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OTHER FEE PROGRAMS (CONT'D.)

**Parks, Recreation and Neighborhood Services
Department** (Cont'd.)

center fees, community center rentals, recreational and swimming lesson fees, skate park fees, roller hockey rink skating, gated event fees, parking fees, admission charges for Happy Hollow Park and Zoo, picnic and other outdoor activity reservations, animal permits and licenses, animal adoption, and other shelter services fees.

In the 2007-2008 Adopted Fees and Charges Program, PRNS's total General Fund fee revenue estimate is approximately \$9.1 million. Implementation of the approved fee revisions result in a slight decrease to the General Fund fee program cost recovery level compared to 2006-2007 (85.7% and 87.6% respectively). For all funds, the fee program approved for 2007-2008 will also decline slightly, falling to a level of approximately 88.2% cost recovery compared to 89.9% for 2006-2007.

The overall cost recovery rate in this department continues to be less than 100% for a number of reasons. First, it is not possible to recover total program costs while also maintaining fees comparable to prevailing rates for similar services in adjacent jurisdictions. In addition, a number of the fees that PRNS collects are set by City Council policy at well below full cost recovery levels in order to encourage community participation (e.g., the Summer Swim Program, and the field and sports facilities use).

OTHER FEE PROGRAMS (CONT'D.)

The PRNS 2007-2008 Adopted Fees and Charges Program contains approvals for fee increases to cover cost increases while maintaining cost recovery levels. Increased costs for labor and non-personal/equipment costs resulted in the need to increase fees to higher levels.

**Planning, Building and Code Enforcement Department
(Non-Development Fees)** – The Code Enforcement Division of the Planning, Building and Code Enforcement Department collects fees for multiple housing permits, solid waste enforcement, neglected/vacant building registration, landfill closure and post closures, auto body repair shop permits, auto dismantler permits, and the abandoned shopping cart program. For 2007-2008, fee increases were approved for the Multiple Housing Program, Solid Waste Enforcement Fee, Off-Sale Alcohol Program, Automobile Dismantler Permits, and Neglected/Vacant Building Registration Fee in order to maintain full cost recovery status.

Police Department – In this Department's Fee Program, fees are collected from the public and from other police agencies for services such as fingerprinting, search and copying of public records, and vehicle impound release. Certain businesses and activities are subject to regulation, and fees are charged to offset the costs for processing permits and licenses that accompany the regulatory process and to partially offset costs for related investigative work.

Police Department fees are in the 100% cost recovery category except for two areas: the Taxicab Driver Permit

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Police Department (Cont'd.)

Fee and the Emergency Communication System Support (ECSS) Fee. The overall cost recovery gap (adopted cost recovery level of 84.8%) is attributable to the lower than cost recovery level for those two fees. The Taxicab Driver permit fee is anticipated to be recovered at 64.3% of the estimated costs. The Police Department reevaluated the amount of time spent on this permit, which identified significantly increased costs. In order to mitigate this impact, the fee increase was approved to be phased in over several years. The ECSS Fee recovers by design approximately 82.9% of the total costs of the City's emergency dispatch services. This reflects the annual recalculation of costs and revenues associated with this fee, and City Council direction to exempt certain groups such as Lifeline Service customers, pay phones, and certain educational and governmental entities from this fee. No ECSS Fee increases were proposed for 2007-2008.

A number of fee modifications were adopted for 2007-2008 in other areas of the Police Fee Program in order to maintain full cost recovery. These adjustments reflect the annual review of time and resources used in the permit processes and are necessary to maintain full cost recovery levels. No significant impact on the Department's customers is anticipated from these approved revisions.

Transportation Department (Non-Development Fees) – Fee adjustments were adopted in this budget for several of

the Transportation Department non-development-related fees to keep pace with cost increases and/or maintain full cost recovery. Revisions were approved in the following categories: Freight Loading Zone; Meter Hood Rental; Miscellaneous Fees and Charges; Side Sewer Installation Reimbursement; Sidewalk Repair – Inspection and Contract Administration; and Taxi Stand Rental.

OTHER FEE REVISIONS

As mentioned earlier, a number of revisions to fees in various City programs were adopted as part of the 2007-2008 budget, but not included in this document because they were brought forward to Council in a separate form or in a parallel process. Included in this category, for example, are changes to Airport fees, fees for activity at the Convention Center, changes to charges in City Parking Lots, and revisions to City utility fees (Recycle Plus, Sewer Service and Use Charge, Storm Sewer Use Charge, Recycled Water charges, and Municipal Water System charges). As described in the Adopted Operating Budget, increases were adopted for these major City utility categories. Included were increases for the Recycle Plus Program (28% for single family, 4% for multi-family), Sewer Service and Use Charge (9%), the Storm Sewer Use Charge (9%), and basic water usage rate for Municipal Water Program users (7.3%).

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PHOTOCOPY FEE STANDARDIZATION

Subsequent to the adoption of the 2007-2008 budget, as a result of a Sunshine Reform Task Force inquiry, staff recognized that there were different fees and charges for photocopying standard records and documents in the various City departments.

In order to remedy this situation, included in the 2006-2007 Annual Report brought to the City Council in October, was a recommendation that the various City departments adopt one standardized fee of \$0.20 for copying records and documents. This standard fee will not apply to photocopying fees set by State or federal law such as Political Reform Act Forms, or specialized photocopying services such as blueprints, microfilm/microfiche, and optical imaging reproduction. The photocopy fee standardization was approved on October 16, 2007 and impacted fees charged by the Office of the City Clerk, Fire Department, Police Department, Transportation Department and Public Works Department. More details on the revisions to these specific fees can be found in the Departmental Fees and Charges section.

SUMMARY

Approved fees and fee structure revisions are presented in the following summaries and detailed in the departmental sections that form the body of this report. The revenues that will result from the approval of the fees are reflected in the 2007-2008 Adopted Operating Budget.

Notification to the public and interested parties of the proposed fee program changes was provided through various means, including meetings with interested stakeholders, and through distribution of this document to the City Clerk's Office and to Library branches. Specific notification efforts are described in each of the Departmental Impact Analysis Reports contained in this document.

The Proposed Fees and Charges Report was released on May 4, 2007 allowing for the minimum of ten days for public review. Public input on fee proposals was heard by the City Council during public hearings held on Tuesday, May 15, 2007 and Monday, June 11, 2007 at 7:00 p.m. in the City Council Chambers.

During the fiscal year, the City Manager's Office and the responsible departments will monitor the respective fees. If revenues or activity levels warrant additional changes, appropriate adjustments will be presented for the City Council's consideration.

Larry D. Lisenbee
Budget Director